

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

QUINTEZ TALLEY, and
PENNSYLVANIANS WITH MENTAL
ILLNESS,

Plaintiffs,

vs.

COMMONWEALTH OF PENNSYLVANIA,
et al.,

Defendants.

)
)
) Civil Action No. 2:21-1208
)

) United States District Judge
) Cathy Bissoon
)

) United States Magistrate Judge
) Maureen P. Kelly
)
)
)

MEMORANDUM ORDER

This case has been referred to United States Magistrate Judge Maureen P. Kelly for pretrial proceedings in accordance with the Magistrates Act, 28 U.S.C. §§ 636(b)(1)(A) and (B), and Local Rule of Civil Procedure 72.¹

On April 13, 2022, Judge Kelly issued a Report (“R&R,” Doc. 17) recommending dismissal of all of Plaintiff, Quintez Talley’s, federal claims pre-service, *sua sponte*, pursuant to 28 U.S.C. § 1915A, as frivolous, malicious, failing to state a claim upon which relief may be granted, or for seeking monetary relief from a defendant who is immune from such relief, except as to certain constitutional claims that the R&R recommends should be dismissed without prejudice to refiling should Plaintiff receive a favorable termination of his criminal conviction. The R&R further recommends that the Court formally dismiss all claims raised on behalf of “Pennsylvanians with Mental Illness” for the reasons set forth in the R&R and in the

¹ This matter initially was referred to Chief Magistrate Judge Cynthia Reed Eddy. Judge Eddy recused herself from the case on October 14, 2021, and the case was reassigned to Judge Kelly at that time. (Doc. 7).

Order of Court dated September 11, 2021 (Doc. 3, Eddy, J.), and decline to extend jurisdiction over Plaintiff's state law claims. (R&R at 2).

Service of the R&R was made on Plaintiff, and he has filed Objections and a Brief in Support (Docs. 20, 21). After a *de novo* review of the pleadings and documents in this case, together with the R&R, Plaintiff's Objections thereto, and all related briefing, Plaintiff's Objections (Doc. 20) are overruled,² and Judge Kelly's R&R will be adopted as the opinion of the district court.³

On March 30, 2022, Plaintiff filed separate Objections *nunc pro tunc* (Doc. 14) to an Order Judge Kelly entered on February 11, 2022 denying Plaintiff's Motion to Appoint Counsel (Doc. 13). After review of these Objections, the February 11, 2022 Order, and the factors set forth in Tabron v. Grace, 6 F.3d 147, 155 (3d Cir. 1993), the Court agrees that appointment of counsel was not appropriate. *See Tabron*, 6 F.3d at 155 (in deciding whether to appoint counsel, courts must make a threshold determination of whether the claims have arguable merit); Talley, 2022 WL 1701849, at *1 (upholding denial of counsel in similar

² In addition to Plaintiff's substantive objections, the Court acknowledges and rejects Plaintiff's procedural contention that Judge Kelly erred in addressing his claims *sua sponte* and prior to service of his Complaint. *See* Doc. 21 at 3-6. It is well-established that, under Section 1915A, district courts not only are permitted to *sua sponte* dismiss a complaint that fails to state a claim, but are required to do so. *See Williams v. Wettick*, No. CIV.A.06-991, 2006 WL 2590491, at *3 (W.D. Pa. Sept. 7, 2006), *appeal dismissed*, 241 F. App'x 797 (3d Cir. 2007); *see also* 28 U.S.C. § 1915A(b).

³ To the extent Plaintiff suggests that the Court "stay this case pending the resolution of the appeal" in a similar case he filed in the Middle District of Pennsylvania – Talley v. Supreme Court of Pa., No. 17-CV-1632, 2019 WL 5446052, at 2 & 16 (M.D. Pa. May 23, 2019), *report and recommendation adopted*, 2019 WL 5424399 (M.D. Pa. Oct. 23, 2019) – that request is denied. *See* Pl. Br. (Doc. 21) at 11 n.11; R&R at 24-25. After the filing of the R&R and Plaintiff's Objections in this case, the Court of Appeals for the Third Circuit affirmed the Middle District opinion, mooted Plaintiff's request, and lending further support to the R&R's reasoning. Talley v. Supreme Court of Pa., No. 19-3581, 2022 WL 1701849, at *1 (3d Cir. May 27, 2022) (affirming 12(b)(6) dismissal of similar ADA, RA, and related constitutional claims).

litigation, and noting, *inter alia*, that “Talley is an experienced pro se litigator who clearly understands English, and the legal issues involved are not difficult”); Local R. Civ. P. 10.C (“Absent special circumstances, no motions for the appointment of counsel will be granted until after dispositive motions have been resolved.”). Thus, Plaintiff’s March 30, 2022 Objections (Doc. 14) also are overruled.

Accordingly, it hereby is ORDERED that Plaintiff’s federal claims are DISMISSED with prejudice pursuant to 28 U.S.C. § 1915A(b), with the exception of Plaintiff’s constitutional claims against the Individual Defendants⁴ and Defendant Fayette County, Pennsylvania, which are DISMISSED without prejudice to Plaintiff refiling those claims if he receives a favorable termination of his criminal conviction on appeal. The group “Pennsylvanians with Mental Illness” is DISMISSED as a party, and all claims brought on their behalf are DISMISSED. The Court declines to exercise supplemental jurisdiction over Plaintiff’s state law claims, and those claims are DISMISSED without prejudice. The Report and Recommendation (Doc. 17) of Magistrate Judge Kelly dated April 13, 2022, is ADOPTED as the Opinion of the Court, as supplemented herein.

This action shall be marked CLOSED.

IT IS SO ORDERED.

August 5, 2022

s/Cathy Bissoon
Cathy Bissoon
United States District Judge

cc (via ECF email notification):
All Counsel of Record

⁴ The “Individual Defendants,” as defined in the R&R, consist of: Trooper Robert Schmid, Chief Defender P. D. Jaynes, CISM Travis Knapp, PSS Schaup, Capt. Salvay (incorrectly listed in the caption as “Salliay”), Capt. William Tift, Lt. Joshua Poska, Lt. Frederick St. John, Sgt. Louis Dobish, C.O. Chad Harbaugh, C.O. William Rogers, C.O. Andrew Higinbotham, and Judge Linda R. Cordaro. (Doc. 17 at 9).

cc (via U.S. Mail):

QUINTEZ TALLEY
KT 5091
SCI FAYETTE
50 Overlook Drive
LaBelle, PA 15450
PRO SE